



Rep. Rita Mayfield

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LRB099 15636 KTG 46786 a

1 AMENDMENT TO HOUSE BILL 4377

2 AMENDMENT NO. _____. Amend House Bill 4377 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2L as follows:

6 (815 ILCS 505/2L) (from Ch. 121 1/2, par. 262L)

7 Sec. 2L. Used motor vehicles; modification or disclaimer of
8 implied warranty of merchantability limited.

9 (a) Any retail sale of a used motor vehicle made after the
10 effective date of this amendatory Act of the 99th General
11 Assembly January 1, 1968 to a consumer by a licensed vehicle
12 dealer ~~new motor vehicle dealer or used motor vehicle dealer~~
13 within the meaning of Chapter 5 of the Illinois Vehicle Code or
14 by an auction company at an auction that is open to the general
15 public is made subject to this Section.

16 (b) Any sale of a used motor vehicle conducted by a dealer

1 licensed under the Illinois Vehicle Code or by an auction
2 company at an auction that is open to the general public may
3 not exclude, modify, or disclaim the implied warranty of
4 merchantability prescribed in Section 2-314 of the Uniform
5 Commercial Code or limit the remedies for a breach of the
6 warranty before midnight of the 15th calendar day after
7 delivery of a used motor vehicle or until a used motor vehicle
8 is driven 500 miles after delivery, whichever is earlier. In
9 calculating time under this Section, a day on which the
10 warranty is breached and all subsequent days in which the used
11 motor vehicle fails to conform with the implied warranty of
12 merchantability are excluded. In calculating distance under
13 this Section, the miles driven to obtain or in connection with
14 the repair, servicing, or testing of a used motor vehicle that
15 fails to conform with the implied warranty of merchantability
16 are excluded. An attempt to exclude, modify, or disclaim the
17 implied warranty of merchantability or to limit the remedies
18 for a breach of the warranty in violation of this Section
19 renders a purchase agreement voidable at the option of the
20 purchaser.

21 (c) An implied warranty of merchantability is met if a used
22 motor vehicle functions free of a defect in a Power Train
23 component. As used in this Section, "Power Train component"
24 means the engine block, head, all internal engine parts, oil
25 pan and gaskets, water pump, intake manifold, transmission, and
26 all internal transmission parts, torque converter, drive

1 shaft, universal joints, rear axle and all rear axle internal
2 parts, and rear wheel bearings.

3 The implied warranty of merchantability expires at
4 midnight of the 15th calendar day after delivery of a used
5 motor vehicle or when a used motor vehicle is driven 500 miles
6 after delivery, whichever is earlier. In calculating time, a
7 day on which the implied warranty of merchantability is
8 breached is excluded and all subsequent days in which the used
9 motor vehicle fails to conform with the warranty are also
10 excluded. In calculating distance, the miles driven to obtain
11 or in connection with the repair, servicing, or testing of a
12 used motor vehicle that fails to conform with the implied
13 warranty of merchantability are excluded.

14 (d) An implied warranty of merchantability does not extend
15 to damage that occurs after the sale of the used motor vehicle
16 that results from:

17 (1) off-road use;

18 (2) racing;

19 (3) towing;

20 (4) abuse;

21 (5) misuse;

22 (6) neglect;

23 (7) failure to perform regular maintenance; and

24 (8) failure to maintain adequate oil, coolant, and
25 other required fluids or lubricants.

26 (e) If the implied warranty of merchantability described in

1 this Section is breached, the consumer shall give reasonable
2 notice to the seller no later than 5 business days after the
3 end of the statutory warranty period. Before the consumer
4 exercises another remedy pursuant to Article 2 of the Uniform
5 Commercial Code, the seller shall have a reasonable opportunity
6 to repair the used motor vehicle. The consumer shall pay
7 one-half of the cost of the first 2 repairs necessary to bring
8 the used motor vehicle into compliance with the warranty. The
9 payments by the consumer are limited to a maximum payment of
10 \$25 for each repair.

11 (f) The maximum liability of a seller for repairs pursuant
12 to this Section is limited to the purchase price paid for the
13 used motor vehicle, to be refunded to the consumer or lender,
14 as applicable, in exchange for return of the vehicle.

15 (g) An agreement for the sale of a used motor vehicle by a
16 motor vehicle dealer subject to this Section is voidable at the
17 option of the consumer, unless it contains on its face the
18 following conspicuous statement printed in boldface 10-point
19 or larger type set off from the body of the agreement:

20 "Illinois law requires that this vehicle will be free of a
21 defect in a Power Train component for 15 days or 500 miles
22 after delivery, whichever is earlier, except with regard to
23 particular defects disclosed on the first page of this
24 agreement. "Power Train component" means the engine block,
25 head, all internal engine parts, oil pan and gaskets, water
26 pump, intake manifold, transmission, and all internal

1 transmission parts, torque converter, drive shaft, universal
2 joints, rear axle and all rear axle internal parts, and rear
3 wheel bearings. You (the consumer) will have to pay up to \$25
4 for each of the first 2 repairs if the warranty is violated.".

5 (h) The inclusion in the agreement of the statement
6 prescribed in subsection (g) of this Section does not create an
7 express warranty.

8 (i) A consumer of a used motor vehicle may waive the
9 implied warranty of merchantability only for a particular
10 defect in the vehicle and only if all of the following
11 conditions are satisfied:

12 (1) the motor vehicle dealer subject to this Section
13 fully and accurately discloses to the consumer that because
14 of circumstances unusual to the business of the used motor
15 vehicle dealer, the used motor vehicle has a particular
16 defect;

17 (2) the consumer agrees to buy the used motor vehicle
18 after disclosure of the defect; and

19 (3) before the sale, the consumer indicates agreement
20 to the waiver by signing and dating the following
21 conspicuous statement that is printed on the first page of
22 the sales agreement or on a separate document in boldface
23 10-point or larger type and that is written in the language
24 in which the presentation was made:

25 "Attention consumer: sign here only if the dealer has told
26 you that this vehicle has the following problem or problems and

1 you agree to buy the vehicle on those terms:

2 1.....

3 2.....

4 3.....".

5 (j) A motor vehicle dealer subject to this Section has the
6 burden to prove by a preponderance of the evidence that the
7 dealer complied with this Section.

8 (k) It shall be an affirmative defense to any claim under
9 this Section that:

10 (1) an alleged nonconformity does not substantially
11 impair the use and market value of the motor vehicle;

12 (2) a nonconformity is the result of abuse, neglect, or
13 unauthorized modifications or alterations of the motor
14 vehicle;

15 (3) a claim by a consumer was not filed in good faith;
16 or

17 (4) any other affirmative defense allowed by law.

18 (l) Other than the 15 day, 500 mile implied warranty of
19 merchantability identified herein, a motor vehicle dealer is
20 not required to provide any further express or implied
21 warranties to a purchasing consumer unless:

22 (1) the motor vehicle dealer is required by federal or
23 State law to provide a further express or implied warranty;
24 or

25 (2) the motor vehicle dealer fails to fully inform and
26 disclose to the consumer that the vehicle is being sold

1 without any further express or implied warranties, other
2 than the 15 day, 500 mile implied warranty of
3 merchantability identified in this Section.

4 (m) This Section does not apply to the sale of antique
5 vehicles, as defined in the Illinois Vehicle Code, or to
6 collector motor vehicles.

7 ~~(a) The dealer is liable to the purchasing consumer for the~~
8 ~~following share of the cost of the repair of Power Train~~
9 ~~components for a period of 30 days from date of delivery,~~
10 ~~unless the repairs have become necessary by abuse, negligence,~~
11 ~~or collision. The burden of establishing that a claim for~~
12 ~~repairs is not within this Section shall be on the selling~~
13 ~~dealer. The dealer's share of such repair costs is:~~

14 ~~(1) in the case of a motor vehicle which is not more than 2~~
15 ~~years old, 50%;~~

16 ~~(2) in the case of a motor vehicle which is 2 or more, but~~
17 ~~less than 3 years old, 25%;~~

18 ~~(3) in the case of a motor vehicle which is 3 or more, but~~
19 ~~less than 4 years old, 10%; and~~

20 ~~(4) in the case of a motor vehicle which is 4 or more years~~
21 ~~old, none.~~

22 ~~(b) Notwithstanding the foregoing, such a dealer and a~~
23 ~~purchasing consumer may negotiate a sale and purchase that is~~
24 ~~not subject to this Section if there is stamped on any purchase~~
25 ~~order, contract, agreement, or other instrument to be signed by~~
26 ~~the consumer as a part of that transaction, in at least~~

1 ~~10 point bold type immediately above the signature line, the~~
2 ~~following:~~

3 ~~"THIS VEHICLE IS SOLD AS IS WITH NO WARRANTY~~
4 ~~AS TO MECHANICAL CONDITION"~~

5 ~~(c) As used in this Section, "Power Train components" means~~
6 ~~the engine block, head, all internal engine parts, oil pan and~~
7 ~~gaskets, water pump, intake manifold, transmission, and all~~
8 ~~internal transmission parts, torque converter, drive shaft,~~
9 ~~universal joints, rear axle and all rear axle internal parts,~~
10 ~~and rear wheel bearings.~~

11 ~~(d) The repair liability means that the dealer will make~~
12 ~~necessary Power Train component repairs in his shop, or in the~~
13 ~~shop of his service affiliate, on the basis of his regular list~~
14 ~~price charge for parts and labor, where the flat rate list~~
15 ~~price does not exceed 50% of the selling price of the vehicle~~
16 ~~at the time repairs are requested.~~

17 ~~(e) The age of the vehicle shall be measured according to~~
18 ~~the manufacturer's model year designation as shown on the~~
19 ~~Certificate of Title or Registration Certificate. Vehicles~~
20 ~~shall be designated as current year models, one year old, 2~~
21 ~~year old, and so forth according to the time that has elapsed~~
22 ~~since January 1 of the appropriate model year so designated.~~

23 ~~(f) This Section does not preclude the issuance of a~~
24 ~~warranty or guarantee by a motor vehicle dealer or motor car~~
25 ~~manufacturer that meets or exceeds the basic provisions of~~
26 ~~paragraph (a).~~

1 ~~(g) After the effective date of this amendatory Act of~~
2 ~~1989, executives' and officials' cars when so advertised shall~~
3 ~~have been used exclusively by executives of the parent motor~~
4 ~~car manufacturer's personnel or by an executive of an~~
5 ~~authorized dealer in the same make of car. These cars, so~~
6 ~~advertised, shall not have been sold to a member of the public~~
7 ~~prior to the appearance of the advertisement.~~

8 Any person who violates this Section commits an unlawful
9 practice within the meaning of this Act.

10 (Source: P.A. 86-351; 87-1140.)".